

Part 3

Administrative Practices

31A-25-301 Written agreements required.

- (1) Every third party administrator shall have a written agreement with each insurer and with each group policyholder represented.
- (2) The agreements required by Subsection (1) shall contain provisions which include the requirements of this part, except where those requirements are not applicable to the particular functions carried out by the third party administrator.
- (3) If a policy is issued to a trustee, a copy of the trust agreement and its amendments shall be furnished to the third party administrator and kept on file in the offices of the third party administrator.

Amended by Chapter 204, 1986 General Session

31A-25-302 Books and records required -- Access.

- (1) Any insurer contracting with an administrator for administrator services has the right of continuing access to those records maintained by the third party administrator which permit the insurer to fulfill all of its contractual obligations to insured persons. The proprietary rights of the parties in the records are governed by the written agreement between the insurer and third party administrator.
- (2) Every administrator shall maintain at a location accessible to the commissioner, for at least three years, the administrator's written agreements, and complete books and records of all transactions among the administrator, insurers, and insured persons. The books and records shall be maintained in accordance with prudent standards of insurance recordkeeping. The administrator shall provide copies of the books and records to any successor administrator upon request.
- (3) The commissioner shall have access to the books and records maintained by the administrator for the purpose of audit and inspection. Any trade secrets contained in the books and records, including the identity and addresses of policyholders and certificate holders, are confidential, except the commissioner may use that information in any proceeding instituted against the administrator.

Enacted by Chapter 242, 1985 General Session

31A-25-302.5 Place of business and residence address.

- (1) A third-party administrator licensed under this chapter shall register and maintain with the commissioner:
 - (a) the address and one or more telephone numbers of the licensee's principal place of business;
 - (b) a valid business email address at which the commissioner may contact the licensee; and
 - (c) if the licensee is an individual, the licensee's residence address and telephone number.
- (2) A licensee shall notify the commissioner within 30 days of a change of any of the following required to be registered with the commissioner under this section:
 - (a) an address;
 - (b) a telephone number; or
 - (c) a business email address.

Enacted by Chapter 244, 2015 General Session

31A-25-303 Standards pertaining to advertising and underwriting.

- (1) A third party administrator may use advertising pertaining to the business underwritten by the insurer only to the extent it has been approved in writing by the insurer in advance.
- (2) The agreement required under Subsection 31A-25-301(1) shall include a provision on underwriting or other standards pertaining to the business underwritten by the insurer.

Enacted by Chapter 242, 1985 General Session

31A-25-304 Liability of the insurer if administrator receives premium.

If an insurer utilizes the services of a third party administrator under the terms of a written agreement, as required under this chapter, the payment to the third party administrator of any premiums for insurance by or on behalf of the insured is considered as having been received by the insurer. However, the payment of return premiums or claims by the insurer to the third party administrator is not payment to the insured or claimant. This chapter does not limit any right of the insurer against a third party administrator resulting from the third party administrator's failure to make payments to the insurer, insureds, or claimants.

Enacted by Chapter 242, 1985 General Session

31A-25-305 Fiduciary requirements for third party administrators.

- (1) All money received by a third party administrator in that capacity shall be held by the third party administrator as a fiduciary. The money shall be paid in a timely manner to the persons entitled to it. While any money is being held by the third party administrator, it shall be deposited promptly in one or more fiduciary bank accounts maintained by the third party administrator pursuant to any rules the commissioner adopts to protect the integrity of the funds.
- (2) If premiums deposited in a fiduciary account have been collected on behalf of more than one insurer or more than one class of insureds, the third party administrator shall keep records clearly recording the deposits and withdrawals from the account by or for the benefit of persons beneficially entitled to them, if there are not separate accounts for that purpose. The third party administrator shall furnish the insurer or policyholder with copies of the records pertaining to deposits and withdrawals on behalf of the insurer or policyholder.
- (3) The third party administrator may not pay any claim by withdrawals from a fiduciary account. Withdrawals from the account may be made as provided in the written agreement between the third party administrator and the insurer, or between the third party administrator and the policyholders, as required under this chapter, for the following:
 - (a) remittance to an insurer entitled to the remittance;
 - (b) deposit in an account maintained in the name of the insurer;
 - (c) transfer to and deposit in a claims-paying account, with claims to be paid as provided by Section 31A-25-306;
 - (d) payment to a group policyholder for remittance to the insurer entitled to the remittance;
 - (e) payment to the third party administrator of its commission, fees, or charges; or
 - (f) remittance of return premiums to the persons entitled to them.

Enacted by Chapter 242, 1985 General Session

31A-25-306 Payments by administrator.

An administrator shall pay a claim from money collected on behalf of the insurer on drafts or checks as authorized by the insurer.

Amended by Chapter 253, 2012 General Session

31A-25-307 Delivery by administrator of policies and communications from insurer.

Any policies, certificates, booklets, termination notices, or other written communications delivered by the insurer to the administrator for delivery to its policyholders shall be delivered by the administrator promptly after receipt of instructions from the insurer to do so.

Enacted by Chapter 242, 1985 General Session